

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON,
AT SEATTLE

SMARTSHEET, INC.,

Plaintiff,

VS.

FEDERAL INSURANCE COMPANY, *et al.*,

Defendants.

Cause No.

NOTICE OF REMOVAL

JURY DEMAND

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, defendant Federal Insurance Company (“FIC”) hereby removes this action from the Superior Court of the State of Washington in King County, Washington, to the United States District Court for the Western District of Washington.

Statement of Grounds for Removal

1. On or about September 15, 2021, Plaintiff Smartsheet, Inc. filed a complaint (the “Original Complaint”) in the Superior Court of the State of Washington in and for the County of King against Defendants Federal, Freedom Specialty Insurance Company, Argonaut Insurance Company, North American Specialty Insurance Company, Old Republic Insurance Company, Hudson Insurance Company, Allied World National Assurance Company, and

1 Berkley Insurance Company (together, “Defendants”), in a proceeding bearing the docket
2 number 21-2-12226-1 (the “State Court Action”).

3 2. The Original Complaint was never served on Federal, and the docket in the State
4 Court Action does not reflect that it was served upon it or any other Defendant.

5 3. On or about February 11, 2022, Smartsheet filed an amended complaint
6 (“Amended Complaint”) in the State Court Action against Federal and the other Defendants. A
7 copy of the Amended Complaint is **Exhibit A**. A copy of the Jury Demand from the State
8 Court Action is **Exhibit B**.

9 4. Counsel for Smartsheet asked counsel for Federal to accept service of the
10 Amended Complaint by email on February 24, 2022. Counsel for Federal agreed to accept
11 service by email on March 9, 2022. This Notice of Removal is filed within thirty (30) days of
12 acceptance of service and is therefore timely filed under 28 U.S.C. § 1446(b).

13 5. Federal has not answered or otherwise responded to the Amended Complaint
14 filed in the State Court Action.

15 6. This case involves an insurance coverage dispute. The Amended Complaint
16 alleges that Smartsheet purchased two towers of claims-made insurance, each of which set forth
17 a cumulative \$30 million limit of liability. Amended Complaint ¶ 10.

18 7. In the Amended Complaint, Smartsheet avers that it seeks coverage in
19 connection with, *inter alia*, a contribution by Smartsheet to a settlement described as the
20 “Insight Settlement.” *Id.* ¶ 15. The Amended Complaint alleges that Smartsheet has agreed to
21 pay a “sum certain” to resolve certain disputed claims as part of the Insight Settlement. *Id.* ¶
22 68. In email correspondence, Smartsheet has disclosed to Federal the amount of its sum-certain
23 contribution to the Insight Settlement. To respect any confidentiality surrounding the Insight

1 Settlement, Federal states only that the amount of the sum-certain contribution described by
2 Smartsheet exceeds \$75,000, exclusive of interest and costs.

3 8. The Court has original jurisdiction over this action pursuant to 28 U.S.C. §
4 1332. There is complete diversity of citizenship between the parties because Smartsheet, Inc.,
5 is a Washington corporation with its principal place of business in Washington (*id.* ¶ 17) and
6 therefore is a citizen of Washington, and the Defendants are citizens of Delaware, Illinois,
7 Indiana, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, and/or Texas
8 (*id.* ¶¶ 18-25) and in any event are not citizens of Washington (*id.*). In addition, as discussed
9 above this is a civil action in which the matter in controversy exceeds the sum of seventy-five
10 thousand dollars (\$75,000.00), exclusive of interest and costs. Pursuant to Local Civil Rule
11 101(a), Federal possesses a good faith belief that the plaintiff is seeking damages in excess of
12 the jurisdictional amount of this Court.

13 9. As required by 28 U.S.C. § 1446(a), undersigned counsel avers that all other
14 Defendants in the State Court Action have consented to the removal of the State Court Action
15 from the Superior Court of the State of Washington in and for the County of King to the United
16 States District Court for the Western District of Washington within (30) days of the date that
17 any such Defendant has received the Amended Complaint under 28 U.S.C. § 1446(b)(1). *See*
18 *Proctor v. Vishay Intertechnology Inc.*, 584 F.3d 1208, 1225 (9th Cir. 2009).

19 10. Additionally, removal to the United States District Court for the Western
20 District Washington is proper because the state court where the State Court Action originally
21 was filed is located in the Western District of Washington. *See* 28 U.S.C. § 1441(a).
22 Assignment to Seattle is appropriate under Local Civil Rule 3(e)(1).

23 11. Federal reserves the right to amend or supplement this notice of removal.

1 12. By filing this Notice of Removal, Federal does not waive, and expressly
2 reserves, all defenses available under Rule 12 of the Federal Rules of Civil Procedure. Further,
3 should Smartsheet file a motion to remand this case, Federal respectfully requests the
4 opportunity to respond more fully in writing, including the submission of affidavits or other
5 evidence and authorities.

Notice to State Court and Proper Filing of Records

7 13. A notice of the filing of this Notice of Removal and a true copy of this Notice of
8 Removal will be filed with the Clerk of the Superior Court of the State of Washington in and
9 for the County of King as required by 28 U.S.C. § 1446(d).

14. Pursuant to Local Civil Rule 101, Federal shall, within fourteen (14) days after
filing this Notice of Removal from state court to this court, file copies of all records and
proceedings in the state court together with counsel's verification that they are true and
complete copies of all the records and proceedings in the State Court Action.

14 WHEREFORE, Federal requests that the State Court Action currently pending in the
15 Superior Court of the State of Washington in and for the County of King be placed on the
16 docket of the United States District Court for the Western District of Washington.

JURY DEMAND

18 Federal demands a trial by jury on all issues so triable.

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1 DATED this 15th day of March, 2022.
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SOHA & LANG, P.S.

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